IN THE HIGH COURT OF BOMBAY AT GOA

APPEAL FROM ORDER NO.33 OF 2003

M/s Johnson's Interiors
represented by its proprietor,
Shri Alloysius Johnson Pereira,
son of Alex Agustinho Pereira,
businessman, having their office
at H.No.68, Mezzanine Floor,
Angel John Arcade, Kegdicotto,
Cuncolim, Salcete, Goa ... APPELLANT

VERSUS

1. Shri Neves Adriao Rebello,
son of Roque Joaquim Rebello,
through his power of attorney
holder/wife Smt.Pereia Rebello;

2. Smt. Pereia Rebello,
wife of Shri Neves A. Rebello,
Both r/o House No.74 of
Binwado, Betalbatim,
Salcete, Goa;

3. Shri Marcus D'Souza,
employee of Planning
Development Authority
of Vasco-da-Gama(PDA),
Vasco-da-Gama, Goa ... RESPONDENTS.

Mr. P.A. Kamat, Advocate for the Appellant.

Mr. C.A. Coutinho, Advocate for the Respondent No.2.

CORAM : F.I. REBELLO,J.

DATED : JUNE 5, 2003.

ORAL ORDER

Petitioner, a building contractor, had been granted a contract by the Respondents to construct a bungalow. Disputes and differences having arisen, the Respondents terminated the contract. The Plaintiff/Appellant herein filed a

suit against the Defendants/Respondents wherein they sought a relief, amongst others, to restrain Defendants from carrying out any further construction work to the bungalow and also for payment of the sum specified in prayer clause (b).

2. Normally, a building contract cannot be specifically enforced as damages would be an answer. In the instant case, the Court is informed that the construction is complete. Even otherwise, the owner could not have been restrained from proceeding with the construction. At the highest, a Commissioner could have been appointed to examine the work done so that the contractor would be in a position to assess the quantity of the work done and the damages incurred. That has been done. The Commissioner has been appointed and the Commissioner has submitted his report. Bearing these factors in mind, it is not possible to interfere with the Order of the trial Court.

3. The Appeal from Order along with the Civil Application is rejected.

F.I. REBELLO,J.

ac.